


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
JUL 12 2006

CLERK

EVELYN A. BLACKMOON; ROBERT
W. COURNOYER; SHARON DRAPEAU;
and ALAN FLYING HAWK,

Plaintiffs,

vs.

CHARLES MIX COUNTY; CARROL
ALLEN; KEITH MUSHITZ; and
HERMAN PETERS, in their official
capacities as members of the Charles Mix
County Commission; and CHRIS
PAZOUR, in her official capacity as
Auditor of Charles Mix County,

Defendants.

CIV 05-4017

MEMORANDUM OPINION
AND ORDER

Pursuant to the Court's Order, Doc. 61, Defendants filed a proposed remedial plan (Doc. 74) to remedy the Court's earlier finding in favor of Plaintiffs on their one-person, one-vote claim under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The Charles Mix County Commissioners passed Ordinance 05-02, which redistricts the county in accordance with a plan initially presented to the Commissioners by the American Civil Liberties Union. (Doc. 74, Exhibit A.) Plaintiffs do not oppose the remedial proposal submitted by Defendants. The Court finds that the remedy proposed by Defendants solves the malapportionment violation and will adopt the Defendants' remedial proposal (Doc. 74, Ex. A.).

In their response to Defendants' remedial proposal, Plaintiffs request that the Court award remedies under the Voting Rights Act. The Court has not, however, ruled on the Plaintiffs' claims under the Voting Rights Act. Thus, the Court will enter a scheduling order to address Plaintiffs' remaining claims in this action, namely: (1) Claim Two in the Complaint that the existing districts

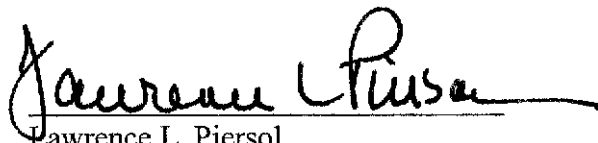
for the Charles Mix County Commission dilute Native American voting strength in violation of the rights guaranteed to the plaintiffs by Section 2 of the Voting Rights Act of 1965; (2) Claim Three that the existing districts for the Charles Mix County Commission were enacted or are being maintained with the discriminatory purpose of denying or abridging the right of Native Americans to vote on account of race or color in violation of rights guaranteed to the plaintiffs by the Fourteenth and Fifteenth Amendments to the United States Constitution; and (3) Claim Four that the existing districts for the Charles Mix County Commission were enacted or are being maintained with the discriminatory purpose of denying or abridging the right of Native Americans to vote on account of race or color in violation of rights guaranteed to the plaintiffs by the Section 2 of the Voting Rights Act of 1965. Accordingly,

IT IS ORDERED:

1. That Charles Mix County Ordinance 05-02, dated November 22, 2005, which is an ordinance to redistrict Charles Mix County and is Defendant's Remedial Proposal, Doc. 74, Ex. A, is adopted by the Court to remedy the Court's earlier ruling in favor of Plaintiffs on their one-person, one-vote claim under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
2. That any motions the parties desire to file on Plaintiffs' remaining claims in this action as stated in Claims Two, Three and Four of the Complaint shall be filed and served, with supporting briefs, on or before July 31, 2006; that opposing parties shall file and serve answering materials and briefs on or before August 18, 2006; and reply briefs shall be filed and served on or before August 28, 2006.

Dated this 12th day of July, 2006.

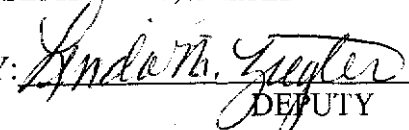
BY THE COURT:


Lawrence L. Piersol
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:


Linda M. Ziegler
DEPUTY